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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,715	02/01/2001	Atsushi Iwamura	572.39563X00	3399
24956	7590	10/19/2005	EXAMINER	
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.			MILLS, DONALD L	
1800 DIAGONAL ROAD			ART UNIT	
SUITE 370			PAPER NUMBER	
ALEXANDRIA, VA 22314			2662	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/774,715

Applicant(s)

IWAMURA ET AL.

Examiner

Donald L. Mills

Art Unit

2662

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 27 September 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☒ The Notice of Appeal was filed on 27 June 2005. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-18.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary, and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

*[Signature]*

JOHN FELZ  
PRIMARY EXAMINER

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Continuation of 3. NOTE: Regarding claims 1 and 10, the modifications (as seen below) to the claims change their scope; therefore, the Examiner is required to perform an updated search.

1. (currently amended) An Asynchronous Transfer Mode (ATM) communication apparatus in a point-to-multipoint optical transfer system where the ATM communication apparatus is connected to a plurality of optical network units through an optical branching device, and the ATM communication apparatus receives a multiplexed signal obtained when the optical branching device multiplexes optical signals transmitted by the optical network units, and branches an optical signal at the optical branching device to transmit to the optical network units, the ATM communication apparatus sends to each of the optical network units by using a certain area in an ATM cell, transmission timing and a transmission bandwidth of an ATM cell to be transmitted to the ATM communication apparatus to give an access right to control a communication bandwidth to perform ATM-cell receiving control in the optical transfer system, the ATM communication apparatus comprising connected with a plurality of optical network units for issuing access permission to permit transmission of ATM cells to said plurality of optical network units and for receiving ATM cells comprises:

a traffic supervisory unit for supervising a traffic situation of ATM cells sending sent to said own ATM communication apparatus from a plurality of the optical network units, the traffic supervisory unit having a supervisory unit of a receiving bandwidth for detecting the receiving bandwidth for receiving ATM cells from each of said the optical network units and a supervisory unit of cell overflow situation for

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detecting a cell overflow situation of a sending buffer of ATM cells in each of said ~~the~~ optical network units,

a bandwidth controller having a basic bandwidth assigner for assigning the ~~a~~ basic bandwidth for sending ATM cells to each of the optical network units, an upper-limit bandwidth storage means for storing a ~~an~~ upper-limit bandwidth set as upper-limit of bandwidth which is usable for transmission of ATM cells of each of said optical network units, a shared bandwidth assigner for assigning a shared bandwidth which is usable with the basic bandwidth to each of said ~~the~~ optical network units according to value of the upper-limit bandwidth based on a receiving bandwidth and cell overflow situation that were supplied from said traffic supervisory unit, and the shared bandwidth storage means for storing the shared bandwidth assigned to each of said ~~the~~ optical network units by said shared bandwidth; and

a generator of access permission for generating access permission to said assigned ~~assign~~ optical network units according to the shared bandwidth assigned by said ~~shared~~ bandwidth controller ~~assignor~~.

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